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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,327	01/22/2002	Tammy Elaine Dollar	1423-AJ	8024

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EXAMINER

HOWELL, DANIEL W

ART UNIT

PAPER NUMBER

3722

DATE MAILED: 02/25/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/055,327

Applicant(s)

DOLLAR ET AL.

Examiner

Daniel W. Howell

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23 and 24 is/are allowed.
- 6) ☒ Claim(s) 1-14, 22 and 25 is/are rejected.
- 7) ☒ Claim(s) 15-21 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-14 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Kosmowski '603. See figures 12-20. The drill bits 400 have been provided with a collar/boss 402 having two outer flanges separated by a concave annular recess. As shown in figures 15-17, the recess is engaged by edges 348 on a sliding plate 305, which is part of the tool magazine. When the spindle is positioned over the tool shank to grab the tool, the plate 305 is slightly shifted, such that the collar may move upwardly through clearance opening 349. It is clear that the recess in the collar 402 is intended to receive a pronged member, which would be similar to the tines of a wrench. Clearly this recess may inherently receive a wrench. Figures 12 and 13 show a motor 195 and that the length of the shank is less than the length of the opening in a chuck., and that the boss is positioned against the chuck during use. With respect to claims 3 and 11, the word "integral" has been interpreted by the courts as permitting multiple pieces which have been joined together (see *In re Hotte*, 177 USPQ 326), such that the boss 402 of figure 17 may be considered to be "integrally formed" with the shank. Note also that Figures 19 and 20 show that the recess 415 may be made in a one piece tool.

3. In line 1 of claim 3, the second "in" should be changed to "is," and in line 1 of claim 9, "took" should be changed to "tool."

4. Claims 1-14 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Kosmowski '417. See figures 7-11. Chuck 126 of spindle 124 grips tool 66 having boss/collar

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142. Note that the collar is adjacent the chuck when the tool is gripped, and that the chuck is longer than the length of the tool shank. The collar has two flanges separated by a concave recess, and the recess may inherently receive a wrench. Column 10, lines 19+ discuss that the collar 142 is press fit onto tool 66, which constitutes "integrally formed." See motor 106.

5. Claims 1-3, 6-11, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Hofbauer. Hofbauer shows a tool having a threaded shank, a larger boss area axially forward of the threads, and a hole 12 for reception of a wrench to secure the cutter in a threaded chuck of a spindle. The boss has a conical section which seats in a conical hole in the chuck. The drill press of line 55 of column3 inherently has a motor.

6. Claims 1-3, 6-11, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Willard, III. Figure 4 shows a cutter 10 integrally formed on a shank 30 (the cutter has been broached into opening 38 in the shank). The shank has a threaded end 34 to insert into a chuck, and flats 36 on a larger sized boss will receive a wrench. The chuck which receives threads 34 will inherently be rotated by a motor.

7. Claims 15-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The boss of claim 25 does not have antecedent basis.

9. Claims 23 and 24 are allowed.

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10. Claim 25 would be allowable if rewritten to overcome the rejection(s) under 35

U.S.C. 112, second paragraph, set forth in this Office action.

11. Any inquiry concerning the content of this communication from the examiner should be directed to Daniel Howell, whose telephone number is 703-308-1728. The examiner's office hours are typically about 10 am until 6:30 pm, Monday through Friday. The examiner's supervisor, Andrea Wellington, may be reached at 703-308-2159.

Any inquiries concerning other than the content of this and previous communications, such as missing references or filed papers not acknowledged, should be directed to the Customer Service Center for Tech Center 3700 at 703-306-5648.

In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office actions directly into the Group at FAX number 703-872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a USPTO deposit account. Please identify Examiner Daniel Howell of Art Unit 3722 at the top of your cover sheet.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is 703-308-1148.



Daniel W. Howell
Primary Examiner
Art Unit 3722